

Amendment are respectfully requested. Early and favorable action is further requested.

In response to Office Action mailed January 28, 2003, please amend the above-identified application as follows:

Please rewrite claims 1 and 36, as set forth below in clean form. In accordance with 37 CFR § 1.121(c)(1)(ii), Applicant has attached a marked-up copy of claims.

1. (Thrice Amended) A device, being adapted for mobile use, for wireless, coded access of incident data including video from a remote vehicle continuous, incident recording system, located on a vehicle, the device comprising:

a) at least one interface for transmitting a code to the remote vehicle continuous, incident recording system to access the data;

b) an information data link, coupled to the at least one interface for receiving the accessed data; and

c) a transceiver coupled, at least indirectly, to the information data link, the transceiver adapted to transmit the accessed data from the remote vehicle continuous incident recording system located on the vehicle to the device or to a secure location separate from the device.

36. (Thrice Amended) A method for coded access by a remote device, adapted for mobile use, of incident data including video from a vehicle continuous incident recording system, located on a vehicle, comprising:

transmitting a code from the device, having an interface for coded access to the data, to access the data; and transmitting the accessed data from the vehicle incident recording system to the remote device or to a secure location separate from the device using a transceiver coupled to the device.

#### REMARKS

This amendment responds to a Final Office Action mailed January 28, 2003. As originally filed, the present application presented claims 1 through 52 for examination. In a first response filed February 28 2002, to an action mailed November 29, 2001, claims 1, 2, 26, 28, 34, 36, 44, and 48 were amended and claims 24, 25, 33 and 43 canceled. In a response

filed on November 10, 2002 to a non-final Office Action, dated August 9, 2002, Applicants' amended claims 1 and 36 and canceled claims 21 and 50. Accordingly, claims 1-20, 22, 23, 26-32, 34-42, 44-49, 51 and 52 are pending in the present application. Applicants respectfully request reconsideration of the pending claims in view of the above amendments and the following remarks.

This application has had a tortured prosecution. Initially, Claims 1-5, 31, 36-37, 42, 46 and 48-50 were rejected under 35 U.S.C. 102(b) as being anticipated by Kikinis [U.S. Pat. 5,815,093 ] and Claims 6-21, 22-30, 32-35, 38-41, 43-45 and 50-52 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kikinis [U.S. Pat. 5,815,093] in view of Shamosh et al. [U.S. Pat. 5,144,661].

Applicants' amended the claims and pointed out the distinctions between these references and the claimed invention as amended. The Kikinis reference was overcome by these amendments. The response was to issue a final action, which removed both of the above references, and rejected all of the amended claims over a new reference Horvat [U.S. Pat. 4,591,823] (see final rejection mailed May 22, 2002). Applicants objected to this action being final based upon the fact that a new, sole reference, never cited, was used as a reference in rejecting all the claims under 35 USC §102 and §103. The final was withdrawn, and a non-final action (papers 9 & 10) was mailed on August 9, 2002 asserting the same rejection.

In the August 9, 2002 action, claims 1-5, 7-8, 26-35, 44-45, 46-49 and 36 were rejected under 35 U.S.C. 102(b) as being anticipated by Horvat [U.S. Pat. 4,591,823] and claims 14-21, 40-42 and 50 were rejected under 35 U.S.C. §103(a) as being unpatentable over Horvat [U.S. Pat. 4,591,823]. Applicants' amended the claims and pointed out the distinctions between this references and the claimed invention as amended. The response was to issue this Final Action, which removed the above reference, and rejected all of the amended claims over a new reference Bernard [U.S. Pat. 5,515,043] and reasserted Kikinis (previously overcome). Applicants' Attorney contacted Examiner, but examiner refused to remove the finality of the action.

By action taken here, Applicant in no way intends to surrender any range of equivalents beyond that needed to patentably distinguish the claimed invention as a whole over the prior art. Applicant expressly reserves all such equivalents that may fall in the range between Applicants' literal claim recitations and combinations taught or suggested by the prior art.

## **I. Applicants' Invention**

Applicants' invention is a device, adapted for mobile use, for coded interface with an onboard, remote vehicle continuous, incident recording system, which generates secure, continuous data (including video) of an incident, external or internal to the vehicle, which data is only accessible by a code provided to the remote vehicle continuous incident recording system. Thus, the device first transmits an access code which is read onboard the vehicle by the remote vehicle continuous incident recording system, in order to gain access to the incident data of the remote vehicle continuous incident recording system. Once access is gained, by use of the access code, the data can be transmitted to the device or a secure repository or both. The access code is not required to operate the device or to operate the remote, continuous vehicle incident recording system. The system is always on recording data. The data received is not mere tracking information, but includes video of an incident recorded by the continuous incident recording system. Thus, the remote vehicle continuous incident recording system is always recording continuously, but is "silent" unless and until the access code is received by the system. Only then does the remote vehicle continuous, incident recording system transmit video and other continuous data related to the incident, which has been captured by the onboard system.

## **II Amendment of Independent Claims 1 and 36**

In the present response, Applicants amend independent claims 1 and 36. As discussed below, the amendment of claims 1 and 36 clarifies that the vehicle incident recording system video and other data of an incident is continuous and not sampled; is accessed by a system code which is transmitted to the on board vehicle incident recording system to access incident data generated by said system to the mobile device or a remote location. It does not activate an interactive deterrent system through an onboard cell phone. The device is also capable of transmitting the accessed incident data from the remote vehicle continuous, incident recording system to a secure location that is separate from the device.

Thus, claim 1 recites "A device, being adapted for mobile use, for wireless, coded access of incident video and other data from a remote vehicle continuous incident recording system, located on a vehicle, ..." wherein the device has "at least one interface for transmitting a code to the remote vehicle continuous incident recording system to access the data;" "an

information datalink, coupled to the at least one interface for receiving the accessed data”; and “a transceiver coupled, at least indirectly, to the information datalink, the transceiver adapted to transmit accessed data from the remote vehicle continuous, incident recording system located on the vehicle to the device or to a secure location separate from the device.” Thus, the device is always on and consciously generates and records incident data to be accessed only by use of an acknowledged code.

Similarly, the amendment clarifies that the claimed method provides for accessing video and other information, relating to an incident, from a vehicle continuous incident recording system by transmission of a code, using a device that is adapted for mobile use and is located at a remote distance from the vehicle. The system is always on, and the generation and recording of data is continuous. The method also provides for transmitting the information to the device or a secure location that is separate from the device.

Applicants submit that the amendment of claims 1 and 36 are fully supported by the specification, including the prior applications, incorporated by reference upon which this application relies. Applicants, therefore submit, that entry of the amendments is proper, since they do not add new matter.

### **III. Rejection of Claims 1-20, 26-32, 34-42, 44-49 and 51-52 Under 35 U.S.C. § 103 (a)**

Claims 1-20, 22, 23, 26-32, 34-42, 44-49, 51 and 52 stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Bernard (U.S. 5,515,043) in view of Kikinis (U.S. Patent No. 5,815,093). Applicants submit that Kikinis and Bernard when viewed alone or in combination, fail to teach or suggest every limitation of independent claims 1 and 36, and therefore the references can neither anticipate nor render obvious the claimed invention. Furthermore, nothing in Kikinis, in Bernard, or in the knowledge generally available to one of ordinary skill in the art suggests modifying the references to arrive at the claimed invention. Applicant therefore respectfully requests withdrawal of the rejection.

To establish a prima facie case of obviousness, the U.S. Patent and Trademark office must meet three basic criteria. First, the prior art reference (or references when combined), considered as a whole, must teach or suggest all the claimed limitations. Second, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, without the benefit of hindsight afforded by the claimed invention, to modify the reference or to combine reference teachings. Finally,

there must be a reasonable expectation of success. *Hodosh v. Block Drug Co., Inc.*, 786 F.2d 1136, 1143 n. 5, 229 U.S.P.Q. 182, 187, n. 5 (Fed. Cir. 1986), MPEP 2141.

Bernard is a theft deterrent, interactive vehicle locator using an on board cell phone. Bernard discloses a vehicle alarm/locating device that incorporates a receiving/transmitting assembly, which receives and/or transmits cellular phone signals over a cellular phone network. (Col 2 lines 37-41). This is not a continuous, incident recording device, but use of an on board cell phone to locate and interact with the vehicle, like sounding the horn and the like. Incidents are not recorded and there is no mention of accident evidence.

It also incorporates a GPS locating assembly, which receives three or more satellite transmissions. A microcontroller or microprocessor controls and receives data from both the receiving/transmitting assembly and the GPS receiver card. This invention also incorporates a locating assembly which ascertains the location of the vehicle and reports this location vocally in any language or digitally when requested i.e. a locator/identifier.

Bernard does not teach secure evidentiary grade information regarding onboard events on the vehicle such as a previously recorded accident as in Applicants' claimed invention. This system only works with an onboard cell phone. "In the voice message mode, whenever vehicle 24 is called from any remote location (provided vehicle 24 is within the range of cellular phone network 30)..." Col. 4 lines 5-8.

The system only responds to a PIN in the voice message mode, which allows access to interact with vehicle systems. "...apparatus 10 will respond upon the entry of a valid Personal Identification Number (PIN) with a voice message containing the present position, velocity, vehicle tag number, and also a command menu allowing for system control and deterrent device activation for other information desired by the caller i.e. a locator/identifier. This permits the caller to activate various controls such as the horn, lights, an in-vehicle microphone and/or speakers, alarms and engine kill switch to name a few." Col. 4 lines 8-16. There is no recorded incident information; the system is not always on, and there is interaction with the vehicle.

Moreover, the Examiner has not given any indication how this reference is even related to Applicants' claimed invention, or how the skilled artisan would relate an interactive cell phone operated theft deterrent and vehicle location system with Applicants' claimed invention.

Kikinis, on the other hand, has already been overcome. The device of claim 1, besides being adapted for mobile use, is able to access information from a vehicle incident recording

system that is located at a remote distance from the device. In addition, the claimed device is able to transmit the information it receives to a secure location that is also separate from the device. Kikinis does not disclose these elements. For example, Kikinis discloses a “vehicle computer log” that includes “a digital camera section 11, a computer section 21, a vehicle data section 31, and a data transfer section 61,” which are located on the vehicle undergoing surveillance. Kikinis at col. 3, lines 20-30. The data transfer section 61 comprises “transfer terminal 77 and radio trans-receiver 75,” which again are located within the vehicle undergoing surveillance. Kikinis at col. 5, lines 57-58.

Further, as to the video recording of Kikinis it is not continuous. “... a microcontroller connected to the digital camera and the flash memory; and an interrupter connected to the microcontroller; wherein the microcontroller accesses images from the digital camera periodically, stores the images sequentially in the sectors of the flash memory,...” Col 2 lines 46-48. This sequential sampling is contrary to Applicants’ claimed, continuous system and teaches away from Applicants’ invention.

Moreover any combination of these references does not yield Applicants’ invention as claimed.

### **III. Conclusion**

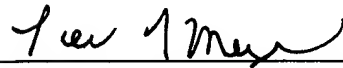
Thus, Applicants claimed invention is a remote device for down loading continuous information to itself or a secure location, by code accessing the secure, continuous, recording incident system. Bernard is, plain and simply, a theft deterrent system, with locato/identifier information using an on board cell phone. For example Bernard teaches blowing the horn in response to theft. There is no evidence of that theft, usable in a court of law, generated by the system. Kikinis does not provide a continuous recordation of the incident, but samples the images and other data. The device for transmitting is not coded and is on the vehicle, not remote. Kikinis has already been overcome once. The examiner has given no reason that he now asserts it again.

The references cited in this application seem nothing more than a hindsight, piecemeal attempt to take unrelated art and weave it into Applicants’ claimed invention. This is improper. Horvat, which was a 102 reference, is abandoned altogether. Bernard, which is not remotely related, is asserted with a reference that has been overcome.

It is respectfully submitted that the claims as presented are allowable because the Examiner has not met the burden required in accordance with 35 U.S.C. 103(a).

Serial Number 09/758,645  
Attorney Docket No. 50021-0005

Reg. No. 27,216  
Tel. No.: (720) 870-5845

  
**SIGNATURE OF PRACTITIONER**  
Lee G. Meyer  
Meyer & Associates, LLC  
17462 E. Powers Drive  
Centennial, CO 80015-3046  
Customer Number 36178